



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

JUL 08 2013

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45 North Hill Drive, Suite 100  
Warrenton, VA 20186

RE: MUR 6521  
Republican Party of Minnesota and  
Bron Scherer in his official capacity  
as treasurer

Dear Messrs. Josefiak and Bayes:

On January 19, 2012, the Federal Election Commission (the "Commission") notified your clients of a complaint designated MUR 6521 alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time. Also, in the normal course of carrying out its supervisory responsibilities, the Commission became aware of information suggesting that your clients may have violated the Act, and forwarded to them a copy of RAD Referral 12L-83 on October 3, 2012. See 2 U.S.C. § 437g(a)(2).

Upon further review of the allegations contained in the complaint and the RAD Referral, and information supplied by you and your clients, the Commission, on June 25, 2013, found that there is reason to believe that the Republican Party of Minnesota and Bron Scherer as treasurer violated 2 U.S.C. § 434(b), a provision of the Act, and 11 C.F.R. §§ 104.3(d) and 104.11(a)-(b), provisions of the Commission's Regulations. The Commission also decided to take no action at this time regarding the allegation that the Republican Party of Minnesota and Bron Scherer in his official capacity as treasurer violated the conciliation agreement in MUR 5926. These matters have been merged into MUR 6521. The Factual and Legal Analysis, which explains the basis of the Commission's findings, is attached.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Requests for extensions of time will not be routinely granted. Requests must be made in writing at least

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MUR 6521 (Republican Party of Minnesota)  
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five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you are interested in pursuing pre-probable cause conciliation, please submit a written request. *See* 11 C.F.R. § 111.18(d). The Office of the General Counsel will then either recommend that the Commission enter into pre-probable cause conciliation and propose an agreement to settle this matter, or recommend that the Commission not enter into conciliation at this time. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you have any questions, please contact Michael A. Columbo, the attorney assigned to this matter, at (202) 694-1341.

On behalf of the Commission,



Ellen L. Weintraub  
Chair

Enclosures  
Factual and Legal Analysis

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2  
3 **FACTUAL AND LEGAL ANALYSIS**  
4

5  
6 In the Matter of )  
7 ) MUR 6521  
8 Republican Party of Minnesota and Bron Scherer in )  
9 his official capacity as treasurer )  
10 )  
11

12 **I. GENERATION OF MATTER**  
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14 This matter was generated based on a complaint filed with the Federal Election  
15 Commission by Citizens for Responsibility and Ethics in Washington ("CREW"), *see* 2 U.S.C.  
16 § 437g(a)(1), and a referral by the Reports Analysis Division ("RAD") to the Office of the  
17 General Counsel ("OGC") of a matter for enforcement.

18 **II. INTRODUCTION**

19 The MUR 6521 Complaint and the RAD referral involve overlapping allegations  
20 regarding debts that the Republican Party of Minnesota ("RPM") failed to timely disclose.

21 The MUR 6521 Complaint alleges that RPM: (1) knowingly and willfully violated  
22 2 U.S.C. § 434(b)(8) and 11 C.F.R. §§ 104.3(d), 104.11(a)-(b) by repeatedly failing to disclose  
23 debts totaling at least \$415,211; and (2) knowingly and willfully violated the conciliation  
24 agreement between the Commission and RPM in MUR 5926 by failing to disclose the same  
25 debts. The Complaint's allegations are based largely on news articles reporting that RPM held a  
26 December 30, 2011 news conference where RPM admitted that it had failed to report \$415,211 in  
27 debt. In response, RPM contends that the Commission previously addressed the Complaint's  
28 allegations in MUR 5926.

1 In RR 12L-83, the Reports Analysis Division ("RAD") referred RPM to the Office of  
2 General Counsel because RPM amended 30 monthly reports that it had filed originally from 2009  
3 to 2011. Those amendments disclosed \$41,671.92 in additional receipts, \$151,345.07 in  
4 additional disbursements, and \$395,305.81 in additional debts that were not disclosed on the  
5 original reports, for a total increased activity of \$588,322.88. RPM responded that the  
6 amendments "speak for themselves," were discovered in the course of an internal review, and  
7 reflected "problems inflicted on the party by others" — an apparent reference to Sutton.

8 It appears likely that the same RPM internal review, conducted between early 2011 and  
9 early 2012, also resulted in the public disclosures that led to the Complaint in MUR 6521 and the  
10 amended reports that led to RR 12L-83. RPM's responses to MUR 6521 and RR 12L-83,  
11 however, do not make the connection. Instead, RPM asserts that the activity identified in  
12 MUR 6521 was previously addressed in MUR 5926 — which resolved allegations of undisclosed  
13 debt from 2006. In contrast, RPM's response to the notice of the RAD Referral acknowledges  
14 the new violations, but does not make a similar claim. RPM declined our invitation to clarify the  
15 debts at issue.

16 The Commission finds reason to believe that RPM failed to disclose debts in violation of  
17 2 U.S.C. § 434(b)(8) and 11 C.F.R. §§ 104.3(d), 104.11(a)-(b).

## 18 II. BACKGROUND

19 RPM is the state committee for the Republican Party in Minnesota and, therefore, it  
20 maintains both state and federal accounts. Anthony Sutton was the RPM treasurer from May  
21 2007 to July 2009, and RPM chair from July 2009 to December 2011. During the last eight  
22 years, RPM has repeatedly failed to accurately report its financial activity.

1           **A.     Misreported 2006 Debts — MUR 5926**

2           On August 16, 2011, the Commission and RPM executed a conciliation agreement in  
3 MUR 5926,<sup>1</sup> in which RPM acknowledged that it had “failed to disclose at least \$994,319 in  
4 outstanding debt to vendors during 2006 in violation of 2 U.S.C. § 434(b),” and it agreed to  
5 “cease and desist from violating 2 U.S.C. §§ 434(b) and 441a(f) and 11 C.F.R. §§ 102.5(a) and  
6 106.7(f).”<sup>2</sup> The scope of the violations to which RPM admitted in the conciliation agreement was  
7 based in part on the Commission’s 437g audit, which analyzed the Committee’s 2006 activities.

8           **B.     Audit of 2007-2008 Activity**

9           The Audit Division also audited RPM for the period 2007-2008. The audit revealed that  
10 RPM understated: its 2007 receipts by \$75,267; its 2007 disbursements by \$71,446; and its 2008  
11 Year-End Report cash-on-hand by \$174,238.<sup>3</sup> The Commission ultimately found that the  
12 Committee corrected its misstatements through amended reports.<sup>4</sup>

13  
  

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<sup>1</sup> Conciliation Agreement at 7, MUR 5926 (Aug. 16, 2011) (Republican Party of Minn.) (“CA”).

<sup>2</sup> CA ¶¶ IV.9, VII, MUR 5926. RPM also agreed to pay a \$170,000 civil penalty. *Id.* ¶ VI.

<sup>3</sup> Final Audit Report at 4 (Republican Party of Minn.) (Mar. 1, 2011).

<sup>4</sup> *Id.* at 5-7.

**C. RPM's 2011 Amendments to its 2009 and 2010 Reports**

In the first half of 2011, RPM amended several of its 2009 and 2010 reports. These amendments disclosed a total of \$123,456.94 in previously undisclosed debts.<sup>5</sup>

Report	Newly Disclosed Debts
Amended 2009 October Monthly Report	\$8,606.84
Amended 2009 November Monthly Report	\$11,596.86
Amended 2009 Year End Report	\$5,516.96
Amended 2010 February Monthly Report	\$3,000
Amended 2010 April Monthly Report	\$424.05
Amended 2010 May Monthly Report	\$4,142.88
Amended 2010 June Monthly Report	\$8,733.73
Amended 2010 July Monthly Report	\$11,293.57
Amended 2010 August Monthly Report	\$1,314.84
Amended 2010 September Monthly Report	\$1,489.10
Amended 2010 October Monthly Report	\$32,215.25
Amended 2010 12 Day Pre-General Report	\$844.49
Amended 2010 30 Day Post-General Report	\$26,766.16
Amended 2010 Year-End Report	\$7,512.21
<b>TOTAL:</b>	<b>\$123,456.94</b>

**D. RPM's News Conference and the MUR 6521 Complaint**

On December 30, 2011, RPM held a news conference at which it described an internal report indicating that it had approximately \$2 million in debt, including \$415,211 in previously undisclosed debts.<sup>6</sup> That same day, RPM's treasurer resigned; a few weeks earlier, Sutton had stepped down as RPM's chair.<sup>7</sup>

<sup>5</sup> RR 12L-83 (Republican Party of Minn.), Attach. 2.

<sup>6</sup> Compl. ¶ 11, MUR 6521 (Jan. 11, 2012).

<sup>7</sup> Baird Helgeson, *State GOP \$2 Million in Debt*, STAR TRIBUNE, Dec. 30, 2011 (attached to Compl. as Ex. 3).

1 Relying primarily on news articles reporting these events, CREW filed its Complaint in  
2 MUR 6521 nearly two weeks later on January 11, 2012. In addition to the newly revealed debt,  
3 the Complaint cites reports that Sutton was “running wild” with RPM’s finances and hid  
4 information about RPM’s financial state from the RPM executive committee, regulatory  
5 agencies, and RPM’s own treasurer.<sup>8</sup> Additionally, the Complaint cites RPM’s 2011 December  
6 Monthly Report, which states that RPM owed \$542,005.12 in debts and obligations as of  
7 November 30, 2011. On the basis of these facts, the Complaint alleges that (1) RPM knowingly  
8 and willfully failed to report RPM’s outstanding debts and obligations; and (2) RPM knowingly  
9 and willfully violated the MUR 5926 conciliation agreement.<sup>9</sup>

10 RPM responded to the Complaint on February 2, 2012. RPM does not contest that it  
11 failed to disclose debts to the Commission. Rather, RPM asserts that the Commission already  
12 considered all of the Complaint’s allegations in the course of MUR 5926 (which it conciliated),  
13 and that RPM “cannot be subjected to a second enforcement matter concerning the same  
14 allegations.”<sup>10</sup> RPM was invited to clarify whether the debts identified in the December 2011

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<sup>8</sup> *Id.* The news articles reported that the “new information” disclosed at the press conference “showed a party burning through cash far faster than it was taking it in *as the former chairman [Sutton] did not disclose mountains of debts to party leaders.*” *Id.* (emphasis added). Additionally, “Republican executive committee members said they had been fighting with Sutton for months over the release of party financial information” and “they were not able to get some documents they needed until after Sutton resigned.” *Id.* Reportedly, Sutton resigned “amid complaints of the escalating debt.” See Megan Boldt, *Minnesota Republican Party Debt Could Top \$2 Million*, TWIN CITIES.COM, Dec. 31, 2011 (attached to Compl. as Ex. 4). According to the media reports, RPM executive committee member, Pat Anderson, who was reportedly a former state auditor, stated “we knew we were being lied to” and that Sutton was “running wild” with party finances and “hiding bills not only from the executive committee, but regulatory agencies, even the treasurer.” Compl., Ex. 3. The Committee’s treasurer at the time, David Sturrock, who resigned the same day as the news conference, reportedly stated that “the unreported obligations identified by the current financial review were not known to me.” *Id.* Sutton also released a statement, saying he did not regret spending money to win control of the Legislature for the first time in 40 years, suggesting that at least some of the RPM’s \$2 million in debt was incurred for non-federal elections but not otherwise clarifying the \$415,000 in undisclosed debts. *Id.*

<sup>9</sup> Compl. ¶¶ 13-16, MUR 6521.

<sup>10</sup> RPM Resp. at 1-2, MUR 6521 (Feb. 2, 2012).

news conference were the 2006-election-cycle debts addressed in the MUR 5926 conciliation agreement and to identify what portion of the \$415,211 in allegedly undisclosed debts related to the 2006 election cycle.<sup>11</sup> It declined to do so.

**E. RPM's 2012 Amendments to Its 2011 Reports**

Subsequently, on February 24, 2012, RPM amended its 2011 reports to disclose an additional \$271,848.87 in previously undisclosed debt. Of that amount, \$92,863.13 is debt that should have been reported in RPM's 2009-2010 election cycle reports. The remaining \$178,985.74 is debt that was previously undisclosed from 2011.<sup>12</sup>

Report	Newly Disclosed Debts
Amended 2011 February Monthly Report	\$32,941.59 <sup>13</sup>
Amended 2011 March Monthly Report	\$8,404.36
Amended 2011 April Monthly Report	\$4,354.09
Amended 2011 May Monthly Report	\$24,356.16
Amended 2011 June Monthly Report	\$27,317.48
Amended 2011 July Monthly Report	\$2,961.34
Amended 2011 August Monthly Report	\$5,535.85
Amended 2011 September Monthly Report	\$7,631.29
Amended 2011 October Monthly Report	\$8,646.82
Amended 2011 November Monthly Report	\$49,441.23
Amended 2011 December Monthly Report	\$7,395.53
<b>TOTAL</b>	<b>\$178,985.74</b>

<sup>11</sup> Letter from Daniel A. Petalas, Associate General Counsel, FEC, to Thomas J. Josefiak, Counsel to RPM (Feb. 12, 2013).

<sup>12</sup> RR 12L-83, Attach. 2.

<sup>13</sup> The RAD Referral originally identified this figure as \$125,804.80, *see* RR 12L-83 at 13, but noted that some of this amount was in fact debts from 2010, *see id.* at 13, n. 1. It was later discovered that the \$125,804.80 figure was eight cents too high and should be \$125,804.72. *See* Email from Deborah Chacona, Chief, FEC Reports Analysis Division, to Michael Columbo (Apr. 30, 2013). The figure above, \$32,941.59, is the amount of newly disclosed debts specific to the period covered by the 2011 February Monthly Report. *See* Email from Deborah Chacona, Chief, FEC Reports Analysis Division, to Michael Columbo (Apr. 10, 2013).



1 The exact relationship between the \$271,848.87 in previously undisclosed debt RPM  
2 reported on February 24, 2012, and the \$415,211 in undisclosed debt RPM identified at the  
3 December 30, 2011 news conference is unclear.

4 **F. RAD Referral 12L-83**

5 On September 26, 2012, RAD referred RPM to OGC for enforcement, citing RPM's  
6 amendments in 2011 and 2012, which disclosed additional receipts of \$41,671, additional  
7 disbursements of \$151,345, and additional debts of \$395,305.81.<sup>14</sup> RPM's Response to the  
8 referral states that its "amendments speak for themselves," and also provides a limited  
9 explanation of the amendments' "background and context."<sup>15</sup> RPM noted that it was audited by  
10 the Commission for the 2007-2008 period, and that since that period, it had "undergone  
11 substantial leadership and staff turnover." After listing the three successive chairs of RPM that  
12 served from 2005 to the present, RPM noted that its current staff had worked with RAD since  
13 January 2012 "to correct the filings of its predecessors."<sup>16</sup> Amendments to the 2010 and 2011  
14 reports had already been filed in 2011, RPM pointed out, and in February 2012, RPM amended  
15 its 2011 reports. RPM emphasized that it undertook "lengthy and time-intensive efforts to  
16 investigate, review, self-diagnose, and correct not only the Party's FEC filings, but also its  
17 underlying accounting books, records and other financial statements." RPM acknowledged that  
18 it "has suffered widely-reported financial mismanagement in recent years," but noted that this

<sup>14</sup> RR 12L-83 at 1. The \$395,305.81 figure has been revised downward by eight cents from the total identified in the Referral in accord with the eight cent discrepancy in the 2010 debt amount identified by RAD in RPM's Amended 2011 February Monthly Report.

<sup>15</sup> RPM Resp. at 1, RR 12L-83 (Nov. 30, 2012).

<sup>16</sup> *Id.* at 2.

1 mismanagement was not the work of the current leadership and staff, who instituted systems and  
2 controls to prevent a recurrence. And RPM noted that it continues to struggle with its significant  
3 debt.<sup>17</sup>

### 4 III. ANALYSIS

#### 5 A. MUR 6521

##### 6 1. Alleged Reporting Violations

7 The Complaint's first claim is that RPM knowingly and willfully failed to disclose debts  
8 and obligations totaling at least \$415,211 in violation of 2 U.S.C. § 434(b)(8) and 11 C.F.R. §§  
9 104.3(d), 104.11(a)-(b).

10 As the Complaint points out, on December 20, 2011, RPM disclosed in its December  
11 Monthly Report that it had a total of \$542,005.12 in debts and obligations.<sup>18</sup> But ten days later,  
12 "[o]n December 30, 2011, RPM held a news conference . . . revealing that [it] actually has  
13 approximately \$2,000,000 in debt, including \$415,211 in debts that have never been reported to  
14 the FEC."<sup>19</sup>

15 Committees must include in their disclosure reports "the amount and nature of  
16 outstanding debts and obligations owed by or to" them.<sup>20</sup> A committee must also continuously  
17 report its debt and obligations until they are extinguished and do so "on separate schedules

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17 *Id.*

18 Compl. ¶ 10, MUR 6521.

19 *Id.* ¶ 11; *id.*, Exs. 3-4.

20 2 U.S.C. § 434(b)(8); *see also* 11 C.F.R. §§ 104.3(d) (same).

1 together with a statement explaining the circumstances and conditions under which each debt was  
2 incurred or extinguished.”<sup>21</sup>

3 RPM argues that the alleged undisclosed debts identified in the Complaint were addressed  
4 by the Commission in MUR 5926.<sup>22</sup> In that MUR, RPM was alleged to have underreported its  
5 debts to the Commission “[f]rom at least as early as May 2006 and continuing through at least  
6 February 2007.”<sup>23</sup> In the MUR 5926 conciliation agreement, RPM agreed that it had “failed to  
7 disclose at least \$994,319 in outstanding debt to vendors *during 2006* in violation of 2 U.S.C. §  
8 434(b).”<sup>24</sup> Here, there is substantial evidence that the undisclosed debts RPM addressed in its  
9 news conference are from the period 2009 to 2011 and, therefore, were not resolved by the MUR  
10 5926 conciliation agreement.

11 First, on January 5, 2012, just six days after the RPM news conference, RPM’s finance  
12 director, Ron Huettl, informed its assigned RAD analyst that RPM had discovered unreported  
13 debts dating back *to 2009* and asked for guidance as to how to disclose this discovery.<sup>25</sup> The  
14 proximity of this call to the news conference strongly suggests that the debts Huettl asked about  
15 were the same debts discussed in the news conference. After further communications, RPM filed  
16 a Form 99 on July 31, 2012, which stated in full:

17 Clerical and data entry errors were discovered in early 2011 *going back to January of*  
18 *2009* and amended monthly reports were filed in February 2011 to correct these

<sup>21</sup> 11 C.F.R. § 104.11(a)-(b).

<sup>22</sup> RPM Resp. at 1-2, MUR 6521.

<sup>23</sup> Compl. at 4-5, MUR 5926 (Republican Party of Minn.) (July 16, 2007).

<sup>24</sup> CA ¶ IV.9, MUR 5926 (emphasis added).

<sup>25</sup> RR 12L-83 at 16.

1       inadvertent errors. *Additional errors were discovered upon the committee's internal*  
2       *financial review in late 2011 and early 2012 and additional amendments were filed in*  
3       *February 2012 to correct those errors, as discussed with the reports analyst.*<sup>[26]</sup>

4       The amended reports RPM filed in the first half of 2011 and February 2012 disclosed  
5       debts totaling \$395,305.81. This total is close to the \$415,211 in undisclosed debts announced at  
6       the news conference, suggesting that they may, at least in part, be the same debts.<sup>27</sup> Furthermore,  
7       RPM's Form 99 also links its amended 2011 disclosure reports to an "internal financial review"  
8       RPM performed from late 2011 to early 2012, which was likely the same internal review RPM  
9       discussed at the news conference that formed the basis of the Complaint.

10       Second, there is information that the previously undisclosed debts identified by RPM in  
11       its news conference arose after the 2006 debts addressed in MUR 5926. There is information that  
12       the transactions took place while Sutton was state chair of RPM, which was from July 1, 2009, to  
13       December 4, 2011. And that suggestion is consistent with the fact RPM amended many of its  
14       2009-2011 reports to reflect previously unreported debt.

15       In addition, there is information that there alleged violations here arose after RPM hired  
16       an outside firm with FEC compliance expertise to work with the Treasurer in response to  
17       previous reporting issues. These previous issues were likely related either to (1) the 2006 debts  
18       addressed in MUR 5926, which proceeded through the Commission's enforcement process  
19       during Sutton's tenure as RPM's treasurer and chair, or (2) the Commission's audit of RPM for  
20       calendar years 2007 and 2008, which covered a period of time that overlapped with Sutton's

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<sup>26</sup>       RR 12L-83 at 18 (emphasis added).

<sup>27</sup>       One incongruity — in addition to RPM's assertion that the debts described at the news conference relate to MUR 5926 — is that RPM stated at the news conference that the \$415,211 in debts at issue were previously undisclosed. Of the \$395,305.81 in newly disclosed debts identified in the RAD Referral, \$123,456.94 had been disclosed in amended reports filed before the news conference. This discrepancy further supports our recommendation that an investigation is warranted to better understand the debts at issue in MUR 6521.

1 service as RPM's treasurer and which was resolved while Sutton was the chair of RPM. Either  
2 way, this information supports the inference that the debts at issue in the present matter differ  
3 from those resolved in MUR 5926.

4 Moreover, there is information that the debts discussed by RPM at its news conference  
5 include payments revolving around the debts of the 2010 recount in the Minnesota Governor's  
6 race. This further indicates that the period of RPM's internal financial review that uncovered the  
7 undisclosed debts was not confined to 2006, the year of the debts at issue in MUR 5926.

8 Third, and finally, the news articles submitted in support of the Complaint also indicate  
9 that the undisclosed debts in question were incurred during Sutton's term as chair from 2009-  
10 2011. One article states that RPM released its internal report the same day as its treasurer  
11 resigned and just a few weeks after Sutton resigned as party chair "amid mounting pressure about  
12 party finances."<sup>28</sup> (The treasurer's term of service also roughly corresponded to Sutton's term of  
13 service as state chair.) And RPM executive committee members reportedly said "they had been  
14 fighting with Sutton for months over the release of party financial information" and "were not  
15 able to get some documents they needed until after Sutton resigned."<sup>29</sup>

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<sup>28</sup> Compl., Ex. 3, MUR 6521.

<sup>29</sup> *Id.* Moreover, none of the articles submitted in support of the Complaint describe any mention of 2006 debts at the RPM news conference. To the contrary, the articles quote Sutton as saying that he "did not regret spending money to win control of the [Minnesota] Legislature for the first time in 40 years." *Id.* In the 2010 elections, Republicans gained a majority in the Minnesota Senate for the first time in 38 years. Similarly, RPM's debts identified in the review also included the remaining portion of the civil penalty it agreed to pay in MUR 5926 as a result of the August 2011 conciliation agreement in that case, thus establishing that the period of the review extended well past 2006 and included 2011. *Id.*

According to the other article attached to the Complaint, the "internal review" uncovered debts related to a 2010 recount, suggesting that the review was not limited to 2006 debts. Compl., Ex. 4, MUR 6521. The RPM internal review also discovered undisclosed credit card debt "incurred when Ron Carey chaired the party," which was through June 2009. *Id.* And "party leaders said they were working with election officials to correct campaign finance reports *dating back to 2009*, which could result in fines at the state and federal levels." *Id.* (emphasis

1 Accordingly, the current record indicates that the alleged undisclosed debts identified by  
2 RPM were likely not additional undisclosed 2006 debts that the Commission addressed in MUR  
3 5926, but rather were undisclosed debts RPM incurred between 2009 and 2011 and, thus, beyond  
4 the scope of the MUR 5926 conciliation agreement. Therefore, the Commission finds reason to  
5 believe that RPM and Bron Scherer in his official capacity as treasurer violated 2 U.S.C.  
6 § 434(b) and 11 C.F.R. §§ 104.3(d), 104.11(a)-(b).

7 **2. Alleged Violation of the MUR 5926 Conciliation Agreement**

8 The Complaint also alleges that RPM knowingly and willfully breached the conciliation  
9 agreement in MUR 5926 by allegedly failing to accurately disclose RPM's debts.<sup>30</sup> In that  
10 agreement, which was executed on August 16, 2011,<sup>31</sup> RPM agreed to "cease and desist from  
11 violating 2 U.S.C. §§ 434(b) and 441a(f) and 11 C.F.R. §§ 102.5(a) and 106.7(f)."<sup>32</sup> Thus, if  
12 RPM committed new violations of these provisions after the effective date of the agreement, the  
13 Commission could conclude that RPM violated the cease and desist clause of the agreement.<sup>33</sup>

14 Although RPM has disclosed new debts that it failed to report in its August through  
15 December 2011 reports, which post-date the conciliation agreement, the circumstances of its

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added). This statement, which is corroborated by RPM's contacts with RAD in 2012, further establishes that the newly disclosed debts discussed at the RPM press conference do not predate 2009.

<sup>30</sup> Compl. ¶ 14, MUR 6521. The respondents in the MUR 5926 conciliation agreement were the Republican Party of Minnesota and David E. Sturrock in his official capacity as treasurer. Sturrock resigned the same day as the RPM news conference — December 30, 2011.

<sup>31</sup> See Letter from Kasey Morgenheim, FEC Attorney, to Michael Toner, Counsel for RPM at 1, Attach. (Aug. 17, 2011).

<sup>32</sup> CA at 6, MUR 5926.

<sup>33</sup> The Commission may institute a civil action if it believes that a person has violated a post-probable cause conciliation agreement. 2 U.S.C. § 437g(a)(5)(D).

1 discovery of these new debts is not clear. The Commission does not make a finding at this time  
2 as to the alleged breach of the conciliation agreement.

3 **B. RAD Referral 12L-83**

4 On September 26, 2012, RAD referred RPM to OGC for potential violations of 2 U.S.C. §  
5 434(b) and 11 C.F.R. § 104.3(a), (b), and (d). The referral arose from RPM's 2011 and 2012  
6 amendments to its reports. The amended reports disclosed additional receipts of \$41,671.92,  
7 additional disbursements of \$151,345.07, and additional debts of \$395,305.81.<sup>34</sup>

8 RPM does not deny that it failed to disclose the increased activity, nor does it explain how  
9 or why the activity was not disclosed (other than by acknowledging mismanagement by former  
10 personnel).<sup>35</sup> As noted above, the alleged violations identified in the RAD Referral may be  
11 directly related to the alleged violations in MUR 6521. But RPM's Response to the RAD  
12 Referral, submitted nearly ten months after its response to the Complaint in MUR 6521, does not  
13 attempt to link the alleged violations in the RAD Referral to the allegations in MUR 6521 or, as it  
14 did in its Response to MUR 6521, assert that the Commission had already resolved the  
15 allegations in MUR 5926.

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<sup>34</sup> RR 12L-83 at 1.

<sup>35</sup> RPM Resp. at 1-2, RR 12L-83.

1   **III. CONCLUSION**

2           The Commission finds reason to believe that the Republican Party of Minnesota and Bron  
3   Scherer in his official capacity as treasurer violated 2 U.S.C. § 434(b), and merge the newly-  
4   opened MUR with MUR 6521.

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